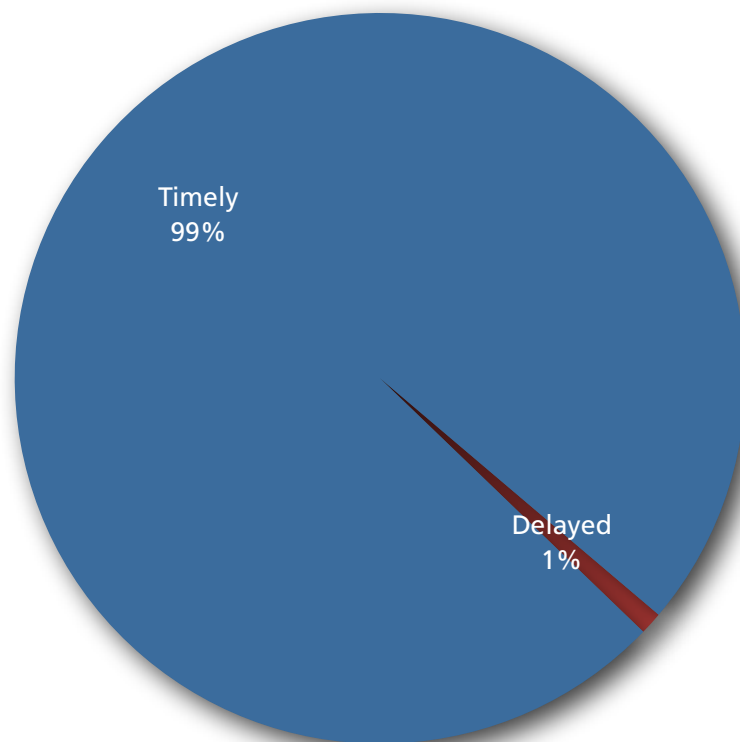


MAXIMIZING THE SUCCESS OF THE INCENTIVE AUCTION

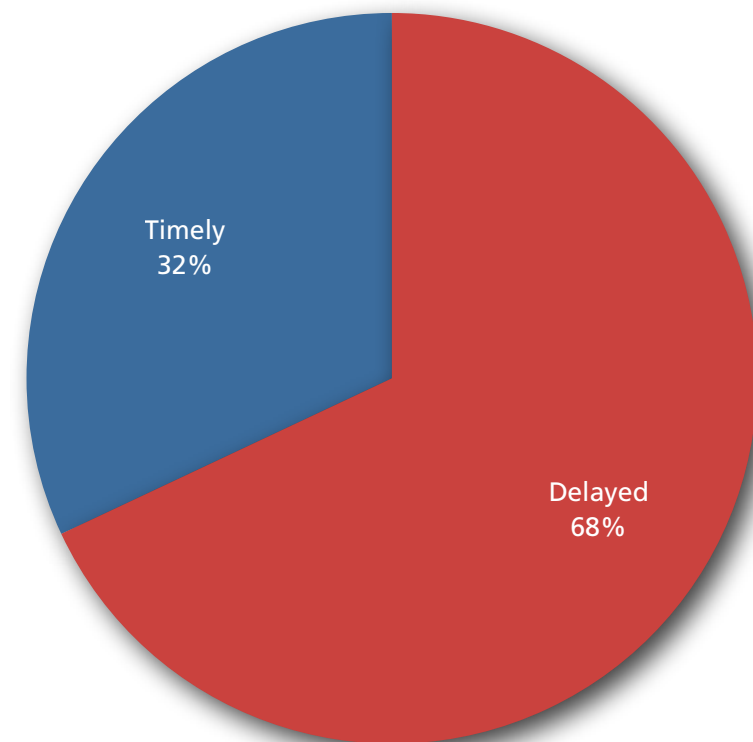


Restricted Auctions Delay Service to the Public

Service Delays in the Unrestricted
PCS A, B, D & E Blocks



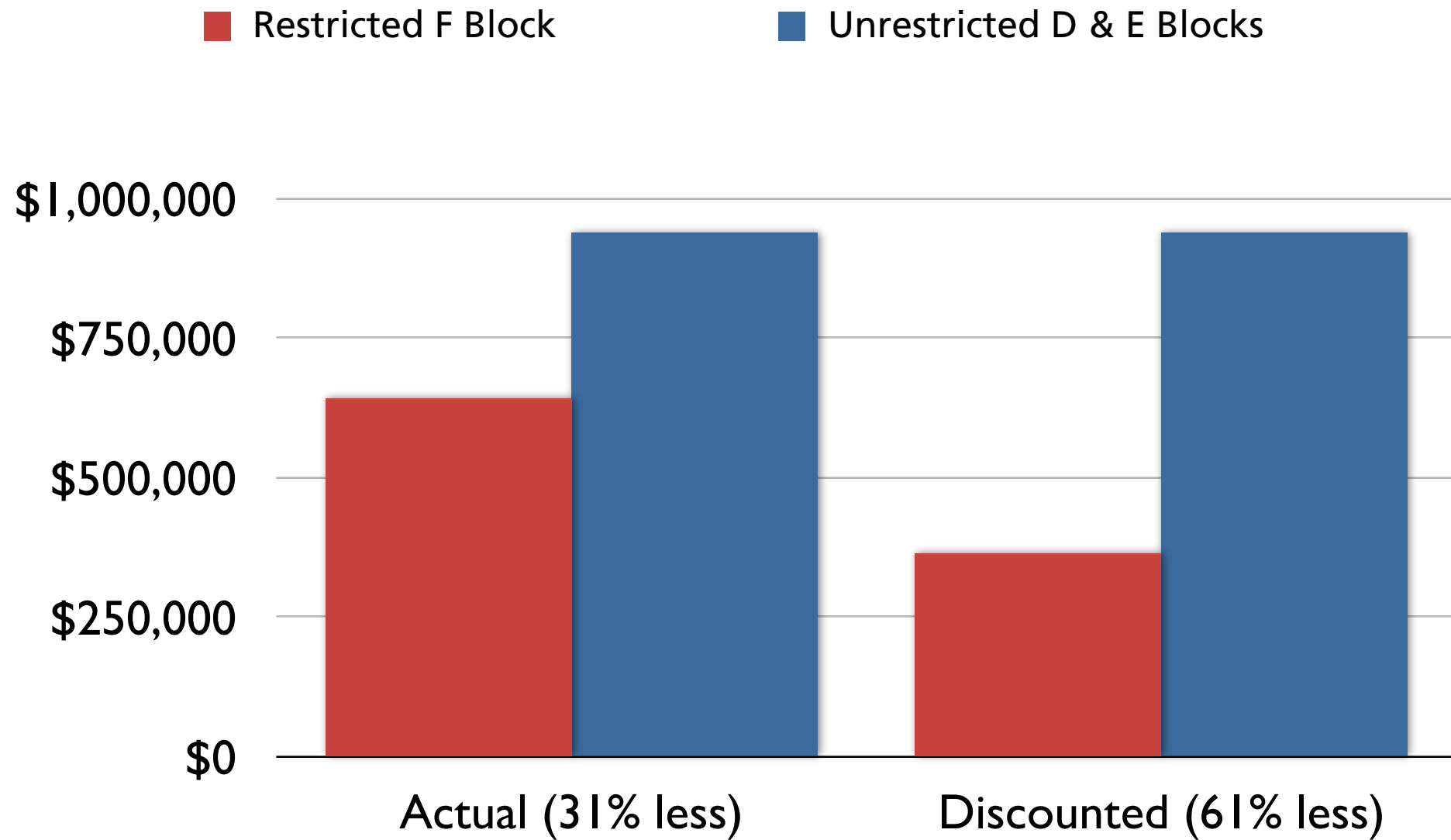
Service Delays in the Restricted PCS
C and F Blocks



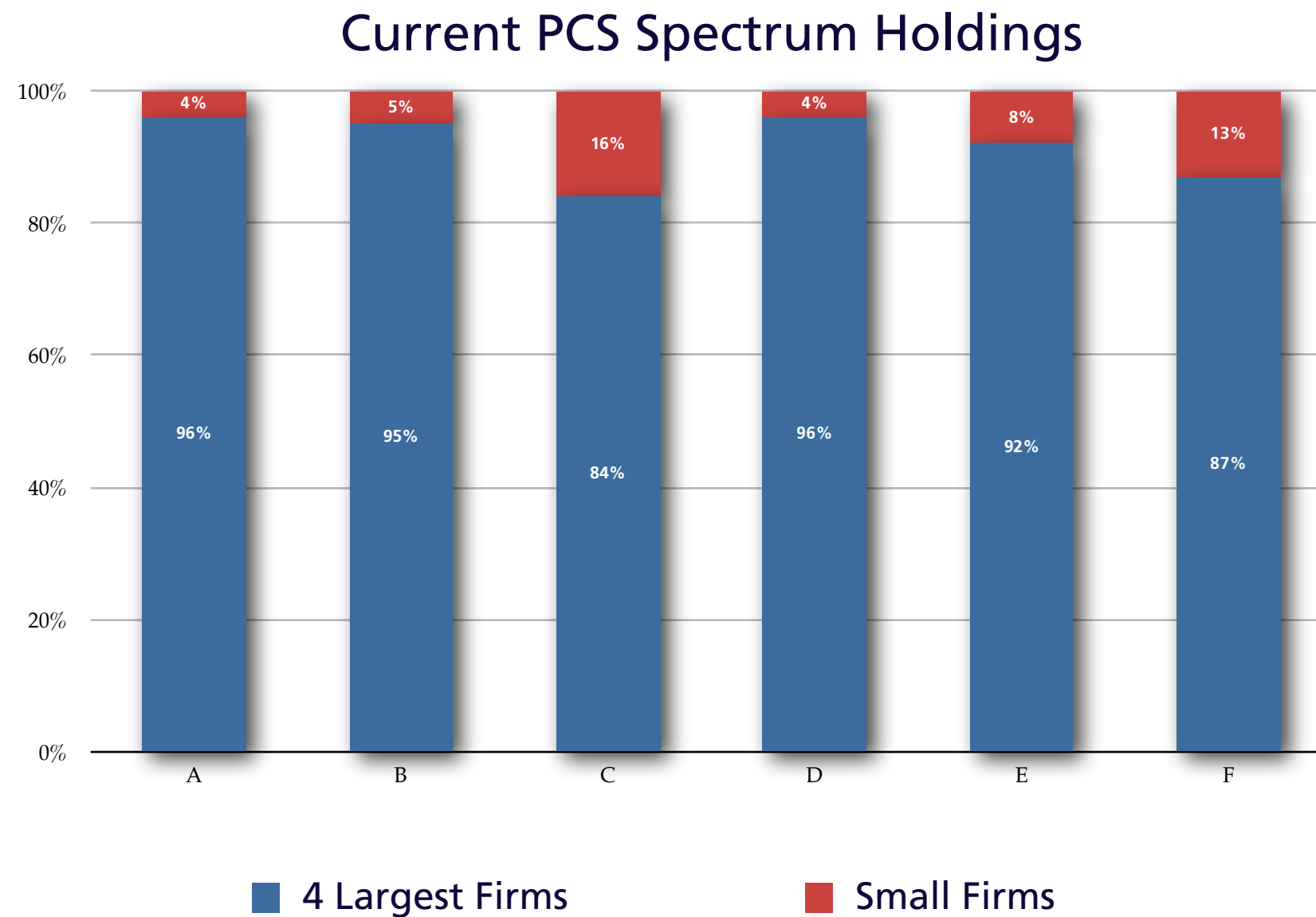
- Services in the PCS C and F blocks were delayed by a weighted average of nearly 7 years

Restricted Auctions Lower Net Bids

Net Bids in \$1,000s in Auction 11



Restricted Auctions Do Not Increase Competition



Comparison of Restricted & Unrestricted Auctions

Auction					Defaults & Coverage Delays			Net Bids (\$1,000s)			
#	Band	Block	MHz	Open	Licenses	Defaults	Delays	Total	Bids Impacted		
4	PCS	A	30	Yes	48	3	0.1%	\$ 2,937,027	\$ 325	0.01%	
		B	30	Yes	51	-	-	\$ 4,082,377	-	-	
5	PCS	C	30	No	625	483	82.3%	\$ 10,102,121	\$ 8,235,739	81.5%	
11	PCS	D	10	Yes	493	11	0.21%	\$ 947,721	\$ 1,361	0.14%	
		E	10	Yes	493	21	0.68%	\$ 927,369	\$ 2,817	0.3%	
		F	10	No	493	92	23.3%	\$ 642,349	\$ 157,913	24.6%	
44	L-700	C	12	Yes	734	-	-	\$ 83,990	-	-	
		D	6	Yes	6	-	-	\$ 4,662	-	-	
66	AWS-1	A	20	Yes	734	-	-	\$ 2,247,018	-	-	
		B	20	Yes	176	-	-	\$ 2,437,133	-	-	
		C	10	Yes	176	-	-	\$ 1,461,416	-	-	
		D	10	Yes	12	-	-	\$ 1,669,659	-	-	
		E	10	Yes	12	-	-	\$ 1,750,555	-	-	
		F	20	Yes	12	-	-	\$ 4,174,486	-	-	
73	L-700	A	12	Yes	176	-	-	\$ 3,875,664	-	-	
		B	12	Yes	734	9	0.54%	\$ 9,068,383	\$ 1,983	0.02%	
		E	6	Yes	176	-	-	\$ 1,266,845	-	-	
73	U-700	C	22	Yes	12	-	-	\$ 4,746,691	-	-	

Legal Standard for Eligibility Restrictions

- Must find that an unrestricted auction “would pose a *significant* likelihood of *substantial* harm to competition in *specific* markets” and that “an eligibility restriction would be *effective* in eliminating that harm”
 - This “is a more discerning standard than the substantial market power standard”
 - There must be evidence that harm is likely to occur and that eligibility restrictions would be effective in eliminating it

No Significant Likelihood of Substantial Harm

- Principles of reasoned decision-making and estoppel preclude the FCC from finding that an unrestricted auction would pose a significant likelihood of substantial harm to consumer choice based on coverage (propagation characteristics) or capacity
- Despite T-Mobile's reliance primarily on spectrum above 1 GHz, in its 2011 review of the AT&T/T-Mobile transaction, the FCC found that if AT&T were to raise prices, "enough customers would instead select a product offered by T-Mobile or some other firm as to make the price increase unprofitable"
- In its 2013 order granting the T-Mobile/MetroPCS transaction, the FCC found that T-Mobile "can expand output relatively inexpensively"

Proposed Remedy Would Be Ineffective

(Under-Broad - Coverage)

- Imposing eligibility restrictions on Verizon & AT&T *only* would not be effective in eliminating the potential for foreclosure based on *coverage*
- Sprint already holds at least 14 MHz of contiguous, nationwide mobile broadband spectrum in the SMR band
- Sprint is likely to have the ability and incentives similar to Verizon and AT&T to engage in foreclosure against T-Mobile

Proposed Remedy Would Be Ineffective

(Under-Broad - Capacity)

- Imposing eligibility restrictions on Verizon & AT&T *only* would not be effective in eliminating the potential for foreclosure based on *capacity*
 - The factors identified by the DOJ as relevant to its foreclosure analysis are equally applicable to Sprint and T-Mobile to the extent foreclosure incentives are based on capacity
 - Constraining the ability of Verizon and AT&T to expand their network capacity would have a relatively high value to Sprint and T-Mobile
 - The unintended consequence of the proposed foreclosure remedy is that it would give firms with relatively strong incentives to foreclose (Sprint and T-Mobile) the *ability* to foreclose by mitigating the costs and risk that otherwise deter foreclosure in unrestricted auctions

Value of TV Stations Includes Opportunity Costs

- Success of the incentive auction depends on inducing a substantial number of television licensees to voluntarily sell their spectrum rights
- To meet this goal, the incentive auction must offer television licensees:
 - An opportunity to sell their spectrum rights for substantially more than they are currently worth
 - At a price that is substantially more attractive than their alternative options

“Scoring” Stations Is Contrary To The Statute

- The FCC proposes to “score” TV stations based on population covered or other factors
- Pursuant to this “scoring”, the FCC Staff would adjust auction prices for different stations in the same market
- That is not what Congress provided in the statute
 - The statute states, “The Commission shall conduct a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights”

"Scoring" Is Unnecessary

- FCC Staff says it wants to "score" TV stations so that it can pay more to stations most important to clearing spectrum
- Staff has conceded that the population covered by a TV station does not measure a station's importance to clearing spectrum
- Staff has not proposed any other "scoring" metric
- The auction design developed by the FCC Staff automatically will pay more to those stations most important to clearing spectrum by freezing them at early, high-priced, rounds of the auction
- That makes "scoring" unnecessary

"Scoring" Could Lead To A Failed Auction

- The FCC does not yet have the spectrum it proposes to auction to the wireless carriers
- The FCC needs hundreds of TV stations to volunteer to surrender spectrum
- Due to technological developments (including a proposed new digital TV standard) all TV stations enjoy an increasing number of alternatives to monetize the value of their spectrum
- The "scoring" proposal is driving stations away from the auction, especially the independent and Class A stations who might be among those most likely to consider participation

Bi-Partisan Support for Market-Based Payments

- House Communications SubCommittee Chairman Greg Walden:
 - "First, the Commission must not artificially limit the potential compensation to broadcasters. This is, after all, an incentive auction, and it would be foolhardy to limit the incentives from the get-go." (March 13, 2013, Energy and Commerce IdeaLab)
- House Communications SubCommittee Ranking Member Anna Eshoo:
 - "No one is going to take advantage of something if they aren't advantaged by it — i.e., money," Eshoo said. "I've heard from small broadcasters that they are still in the dark. They need to understand the benefits. Really, without broadcaster participation, there won't be any new spectrum to repurpose." (Roll Call 10/24/13)

END

